

RULES OF
TIPPECANOE CIRCUIT COURT
SUPERIOR COURT OF TIPPECANOE COUNTY
SUPERIOR COURT NO. 2 OF TIPPECANOE COUNTY
Effective January 1, 1970

The following rules are made, promulgated and adopted jointly by the Tippecanoe Circuit Court, Superior Court of Tippecanoe County, and Superior Court No. 2 of Tippecanoe County, and shall be effective January 1, 1970. All prior rules of the Tippecanoe Circuit Court and of Superior Court of Tippecanoe County are abrogated at such time. The Clerk is directed to spread these rules of record in the Order Book of each Court, and to mail two (2) copies for each Court to the Clerk of the Supreme and Appellate Court.

LIST OF RULES

<u>Rule No.</u>	<u>Title</u>
1	Papers To Be Filed With Clerk
2	Papers To Be Filed With Judge In Motion Hour
3	Motion Hour
4	Service of Pleadings
5	Number Of Copies To Be Filed
6	Motion To Enlarge Time To Plead
7	Suit And Support Day
8	Motion Hearing Day
9	Pre-Trial Conferences
10	Setting Case For Trial Or Pre-Trial Conference – Conditions Precedent
11	Setting Case For Trial Or Pre-Trial Conference – Manner Of Setting
12	Briefs
13	Motions And Objections Regarding Discovery
14	Interrogatories
15	Temporary Restraining Orders
16	Withdrawal Of Original Records, Papers And Exhibits
17	Opening Of Depositions
18	Attorneys As Bail, Surety Or Bondsmen
19	Proceedings Supplementary To Execution

RULE 1

Papers To Be Filed With The Clerk

Any pleading, motion, or other paper which does not require immediate action by the judge shall be filed with the clerk. Examples of papers which should normally be filed with the clerk are as follows (this list is illustrative

rather than exhaustive): Complaints, answers, counterclaims, replies, cross-claims, answers to cross-claims, motions under Trial Rule 12, Indiana Rules of Procedure, interrogatories, motions for production and responses thereto under Trial Rule 34, requests for admissions and objections thereto under Trial Rule 36, demands for jury trial, and motions to dismiss and stipulations for dismissal under Trial Rule 41(A)(1).

RULE 2

Papers To Be Filed With Judge In Motion Hour

Any pleading, motion, petition, or other papers which demand immediate action by the judge, either by way of an immediate ruling, or of setting for hearing, or of a necessary finding or order which must be made by the judge before process can issue, shall either be filed directly with the judge during motion hour or may be filed with the clerk and brought to the attention of the judge at the earliest motion hour thereafter. Emergency matters falling under this classification may be filed with the judge or brought to his attention outside of motion hour whenever he is available to consider them.

Examples of papers which should be filed with the judge or brought promptly before him after filing with the clerk are as follows (this list is illustrative rather than exhaustive): Proceedings supplementary to execution, applications for temporary injunctions where a hearing is to be set, applications for temporary restraining orders without notice, petitions for citations for contempt of court, motions for summary judgment, motions to enlarge time to plead (see rule 6 of this court), pendente lite petitions for custody, support and attorneys fees, petitions for modification of custody, visitation, or support, whether the modification sought is of a final decree or of a pendente lite order, motions to fix amount of bond under Burns Ind. Stat. Sec. 2-4727, motions to dismiss under Trial Rule 41(A)(1), motions for physical examination under Trial Rule 35, and motions for order compelling discovery under Trial Rule 37.

RULE 3

Motion Hour

There shall be a motion hour from 9:00 to 9:30 A.M. every day that court is in session. During motion hour the judge shall be available either in open court or in chambers for the purpose of receiving filings under rule 2 of this Court and of setting dates for trials, pre-trial conferences, hearings, and arraignments, for hearing motions to enlarge time to plead under rule 6 of this Court, applications for temporary restraining orders, for entering agreed orders and judgments, and for other matters which can normally be heard ex parte or without the necessity of hearing evidence or argument.

RULE 4

Service of Pleadings

Counsel in each case shall, without exception, comply with and adhere to Trial Rule 5 of the Indiana Rules of Procedure with respect to the service of pleadings, motions and other documents upon opposing counsel.

RULE 5

Number of Copies To Be Filed

All orders submitted to the court shall be in sufficient number in order that the original may be retained by the clerk and a copy may be mailed to each affected party. An original only of all briefs and motions shall be filed except when the Court otherwise directs.

RULE 6

Motion To Enlarge Time To Plead

A motion to enlarge time to plead under Trial Rule 6(B)(1) of the Indiana Rules of Procedure may be made by either written or oral motion, and may be made without prior notice to opposing parties. It shall not be made more than ten days before the pleading in question is due. The Court for good cause shown will normally grant an enlargement of not more than three weeks without prior notice to opposing parties. An opposing party desiring to oppose an enlargement of time to plead shall file his written objections thereto, stating specifically the grounds thereof, more than ten days before the pleading in question is due. If such objections are filed, the court shall consider them in ruling on the motion for enlargement, but no hearing shall be necessary.

RULE 7

Suit And Support Day

Suit and support hearings will be held from 9:30 A.M. until 12:00 noon on the first and third Mondays of each month in Superior Court, and on the second and fourth Mondays of each month in Superior Court No. 2. The matters heard at such time will include pendente lite petitions for custody, support, attorneys fees, and injunctions in domestic relations cases, and also petitions for modification of custody, support, or visitation orders, and citations for contempt of court in domestic relations cases, whether the modification sought or the contempt charged is of a final decree or of a pendente lite order.

Where there is insufficient time to conclude such hearing on Monday morning, it may be continued over into Monday afternoon, provided time is then available; otherwise it may be continued to any available date.

RULE 8

Motion Hearing Day

Motion hearing day shall be between 1:30 and 4:30 P.M. of the first and third Mondays of each month in Superior Court and of the second and fourth Mondays of each month in Circuit Court and in Superior Court No. 2.

Such time shall be devoted to hearings on default judgments, proceedings supplementary to execution, and all motions which require hearing by the court, including but not limited to the following: motions for

summary judgment, motions to dismiss under Trial Rule 41(A)(2), motions for order for physical examination under Trial Rule 35, and motions for order compelling discovery under Trial Rule 37.

RULE 9

Pre-Trial Conference

A pre-trial conference shall be held in any of the following cases:

(a) In all civil cases triable by jury where there has been a jury demand, unless the case was at issue before January 1, 1970.

(b) In any civil case where one of the parties requests it at the time of the setting of the case for trial or prior thereto.

(c) In any other civil case where ordered by the court.

RULE 10

Setting Case For Trial Or Pre-Trial Conference – Conditions Precedent

No order shall be made setting a case for trial, and no pre-trial conference shall be held, until discovery is complete. All discovery shall be completed six months after the issues are closed, but the court in its discretion may extend beyond six months the time for completion of discovery in cases where it is not reasonably possible to complete discovery within six months.

Where necessary discovery is actually completed or clearly can be completed in less than such six month period, or where no discovery is contemplated by the parties, the fact that such six month period has not elapsed shall not prevent the case from being assigned for trial or for pre-trial conference. A party or attorney objecting to setting of a trial or of a pre-trial conference on the ground that discovery is not yet complete may be required by the court to support his objection by filing an affidavit showing the extent of discovery contemplated, the necessity therefor, and the amount of time reasonably expected to be consumed thereby.

RULE 11

Setting Case For Trial Or Pre-Trial Conference – Manner Of Setting

After a case is at issue, any party thereto may move during motion hour to have the case set for trial or for pre-trial conference. The attorneys for all of the parties must be present, except:

(1) where the moving attorney informs the court that he has made a reasonable effort to get opposing counsel to meet him in court for the purpose and opposing counsel has failed or refused to do so; or

(2) where opposing counsel does not have his office in Tippecanoe County.

It shall not be necessary for a party who is not represented by counsel to be present for such setting.

Where a case is set for trial or for pre-trial conference in the absence of a party or his attorney, and he is unable to comply with such setting or has some

other good reason for vacating the same, he shall so notify the court and move to have such date set aside at the earliest possible motion hour after receiving notice thereof.

RULE 12

Briefs

Motions to dismiss under Trial Rule 12(B) of the Indiana Rules of Procedure, and for judgment on the pleadings may be accompanied by a brief and proof of service upon opposing counsel of record. An adverse party shall have fifteen (15) days after service of the movant's brief to file an answer brief if he desires to do so.

Failure to file briefs within the time prescribed shall subject such motions to summary ruling unless any party who has timely filed a brief requests a hearing, which may then be granted in the discretion of the Court.

RULE 13

Motions And Objections Regarding Discovery

To curtail undue delay in the administration of justice, the court shall refuse to rule on any and all motions for and objections to discovery and production of documents under Trial Rules 27 through 37 of the Indiana Rules of Procedure unless moving counsel shall first advise the court in writing that after personal consultation and sincere attempts to resolve differences, they are unable to reach an accord. This statement shall recite, in addition, the date, time and place of such conference and the names of parties participating therein. If counsel for any party advises the court in writing that opposing counsel has refused or delayed meeting and discussion of the problems covered in this rule, then the court may take such action as is appropriate to avoid delay.

RULE 14

Interrogatories

(a) Answers or objections to interrogatories under Trial Rule 33 of the Indiana Rules of Procedure shall set forth in full the interrogatory being answered or objected to immediately preceding the answer or objection.

(b) No mimeographed or otherwise duplicated forms containing interrogatories shall be filed or served upon a party unless all interrogatories on such forms are consecutively numbered and applicable to the case in which the same are filed and served. Intent and purpose of this rule is to prohibit the filing of mimeographed or otherwise duplicated forms of interrogatories except where the nature of the case or the number of the parties makes the use of such forms necessary and feasible.

RULE 15

Temporary Restraining Orders

In any case in which a temporary restraining order without notice is sought, counsel for the moving party shall prepare and submit to the court the

form of order requested, which shall include all special findings in support of such order as required by Trial Rule 52 and Trial Rule 65 of the Indiana Rules of Procedure. If such order is to be extended beyond its original term under Trial Rule 65(B) the special reasons for such extension shall be set forth in the order of extension, which also shall be furnished by counsel.

The standard form temporary restraining orders formerly issued in domestic relations cases are no longer valid under Trial Rule 65(B), and will no longer be issued.

RULE 16

Withdrawal Of Original Records, Papers, and Exhibits

No person shall withdraw any original pleading, paper record, model, or exhibit from the custody of the clerk, reporter or other officer of this court having custody thereof except (1) upon order of a judge of this court and (2) upon leaving a proper receipt with the clerk, reporter or officer.

RULE 17

Opening Of Depositions

Unless otherwise ordered by the court, the clerk, at any time after a deposition is filed, shall open such deposition upon request of the judge, or a party or his attorney, first endorsing on the back thereof at the time of opening the name of the person at whose instance the deposition is opened and the date of opening.

RULE 18

Attorneys As Bail, Surety Or Bondsmen

Attorneys shall not become bail, surety or bondsmen for their clients in any cause, matter or proceeding in this court.

RULE 19

Proceedings Supplementary To Execution

(a) Filing Fee. Where proceedings supplementary to execution are brought in the court in which the judgment was rendered, the plaintiff shall not be required to pay any filing fee.

(b) Manner of Service. Appearance Remains in Effect After Judgment. Where, at the time judgment was rendered, there was no appearance to the action, either personally or by counsel on behalf of the judgment-debtor who is to be brought in on proceedings supplementary to execution, he shall be notified under Trial Rule 4 of the Indiana Rules of Procedure. In all other cases he shall be notified under Trial Rule 5. The garnishee-defendant shall always be notified under Trial Rule 4 until such time as an appearance is entered on his behalf.

Where, prior to the rendition of judgment, a defendant has appeared either personally or by counsel, such appearance shall remain in effect after

the rendition of judgment until judgment is satisfied, subject to the right of counsel to withdraw his appearance as provided in this rule.

(c) Withdrawal of Appearance. Counsel shall have the right to withdraw his appearance for a defendant after judgment provided he presents proof to the court that he has:

(1) Furnished the clerk with the present correct address of the defendant.

(2) Notified the defendant in writing:

(a) That he is withdrawing his appearance as counsel for the defendant.

(b) That defendant remains subject to the jurisdiction of the court for the purpose of satisfying the judgment until the judgment is completely satisfied.

(c) That he, counsel, has furnished the clerk of the court where judgment was rendered with the defendant's present address (specifically setting out the address furnished) and that it will in the future be the responsibility of the defendant to notify the clerk of any corrections or changes of address.

(d) Precipe for Notice. Issuance of Notice. Where service is to be had under either Trial Rule 4 or Trial Rule 5 of the Indiana Rules of Procedure on either the judgment-debtor of the garnishee-defendant or both, the plaintiff shall endorse a precipe on his petition, specifying the manner of service on each.

After the court has made its order for the appearance of the judgment-debtor, or the answering of interrogatories by the garnishee-defendant or both, the clerk shall cause service to be made of the order to appear, together with a copy of the petition, upon the judgment-debtor in the manner specified in the precipe, and of the order to answer interrogatories, upon the garnishee-defendant in the manner specified in the precipe.

(e) Papers to be Furnished.

By the plaintiff.

(1) Petitions. The plaintiff shall file an original, plus a sufficient number of copies for service in the manner designated by him.

(2) Interrogatories. Where a garnishee-defendant is brought in, the plaintiff will need to furnish a sufficient number of copies for service in the manner designated by him, plus a copy for the court. All interrogatories shall be prepared to be affirmed by the garnishee-defendant rather than sworn to.

By the Court.

(3) Orders. The plaintiff will not need to prepare or furnish the order. The court will use a standard order.

(4) Notices. The plaintiff will not need to prepare or furnish notice. The court will furnish standard forms of notice for both the judgment-debtor and the garnishee-defendant, which will be prepared by the clerk.

Warren B. Thompson
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Robert F. Munro
Judge, Superior Court of Tippecanoe County

Jack A. King
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